

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MARK RENFRO and GERALD LUSTIG,
as representatives of a class of
similarly situated persons,
and on behalf of the Plan,**

Case No.: 07-2098

Plaintiffs;

v.

**UNISYS CORPORATION,
UNISYS CORPORATION EMPLOYEE
BENEFITS ADMINISTRATIVE
COMMITTEE, UNISYS CORPORATION
SAVINGS PLAN MANAGER, PENSION
INVESTMENT REVIEW COMMITTEE,
FIDELITY MANAGEMENT TRUST
COMPANY, and FIDELITY MANAGEMENT
& RESEARCH COMPANY**

Defendants.

**PARTIES' JOINT MEMORANDUM REGARDING CLASS DISCOVERY
AND BRIEFING OF MOTION FOR CLASS CERTIFICATION**

In accordance with the Court's order of October 5, 2007, Plaintiffs Mark Renfro and Gerald Lustig, Defendants Unisys Corporation, Unisys Corporation Employee Benefits Administrative Committee, Unisys Corporation Savings Plan Manager, Pension Investment Review Committee (the "Unisys Defendants") and Defendants Fidelity Management Trust Company and Fidelity Management & Research Company (the "Fidelity Defendants") file the following proposed schedule for discovery and briefing of the motion for class certification.

1. The parties were unable to reach agreement as to the starting date of discovery.

a. **Plaintiffs' Proposal:** Consistent with this Court's order of October 5, directing the parties to develop a proposal for discovery and briefing with respect to the parties' Motion For Relief From Local Rule 23.1(C) Deadlines And Motion For Scheduling Conference, Plaintiffs propose that the parties shall conduct discovery limited to class certification issues from November 10, 2007 until February 29, 2008.¹

b. **Defendants' Proposal:** Presently pending are: the Unisys Defendants' motion for summary judgment; the Fidelity Defendants' motion to dismiss and Plaintiffs' Rule 56(f) motion seeking deferral of Unisys' motion pending discovery on a variety of enumerated topics. It would be inefficient to proceed to discovery before determining whether these pending dispositive motions bar Plaintiffs' claims and/or whether Plaintiffs have demonstrated the need for further discovery under Rule 56(f). Defendants, therefore, propose that the parties shall conduct discovery limited to class certification issues ("Class Discovery") regarding any remaining claims beginning 30 days following the Court's resolution of the pending dispositive motions. If any is required, the parties shall have 90 days to conduct Class Discovery.

2. The parties agree that, after Class Discovery is complete, Plaintiffs' motion for class certification and responses to the same shall be submitted as follows

a. Plaintiffs shall file their Motion for Class Certification 30 days after the conclusion of Class Discovery.

¹ Plaintiffs note that the position taken by the Unisys Defendants in this Joint Memorandum contradicts the argument made in their Memorandum in Opposition to Plaintiffs' Motion for Relief Pursuant to Rule 56(f). *See* Ct. Doc. 32 at 17 n.22 (arguing that Plaintiffs should have initiated discovery last July when they filed their Amended Complaint).

Unisys responds that its current position is consistent with its earlier arguments. Unisys argued only that Plaintiffs failed to establish the reason for their failure to pursue information deemed "essential" to their summary judgment opposition. Unisys certainly did not argue that Plaintiffs were entitled to begin taking discovery *after* Unisys filed its summary judgment motion. On the contrary, Unisys' consistent position has been that the Court should deny Plaintiffs' request for discovery and decide the pending dispositive motions.

- b. Defendants shall file their Memoranda in opposition to the Motion for Class Certification 30 days after Plaintiffs file their Motion for Class Certification.
- c. Plaintiffs shall file their Reply Memorandum in support of their motion 15 days after the Defendants' Memoranda in opposition are filed.

/s/ AH9693

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